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Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID CARLETON, an individual,)	
)	Case No. CV 07-5924 (JSW)
Plaintiff,)	
)	STIPULATION AND Proposed
v.)	ORDER on Defendants' Motion to Dismiss
)	
)	Date: May 16, 2008
504 GAP, INC. DISABILITY PLANS and)	Time: 9:00 a.m.
THE GAP, INC., in its capacity as Plan)	Courtroom: Hon. Jeffrey S. White
Administrator,)	United States District Judge
)	
Defendants.)	
)	
)	
)	
)	

1 The parties jointly submit the following Stipulation and Proposed Order, and
2 respectfully present it for the Court's consideration and approval as a resolution of Defendants'
3 Motion to Dismiss scheduled for hearing on May 16, 2008.

4 **STIPULATION**

5 The parties agree as follows.

6 1. Defendants represent that the defendant ERISA plan is insured, with respect to plaintiff's
7 claim for disability benefits, by a group disability insurance policy issued by The Prudential
8 Insurance Company of America and/or one of affiliated companies or subsidiaries ("Prudential")

9 2. Defendants represent that Prudential agrees that it will pay, on behalf of defendants, any
10 monetary award or relief ordered by the Court in favor of plaintiff in this case, if any, including,
11 but not limited to, disability insurance benefits, prejudgment interest, post-judgment interest,
12 costs, and attorneys' fees and expenses.

13 3. Based on defendants' representations, plaintiff agrees to the dismissal without prejudice
14 of his Second and Third Claims for Relief, and defendants agree to the withdrawal of their
15 pending Motion to Dismiss.

16 4. The parties agree that plaintiff's Second and Third Claims for Relief may be re-asserted
17 if, and only if, neither defendants nor Prudential pay the monetary award or relief (if any)
18 ordered by the Court in this case. The parties further agree that the Court shall retain jurisdiction
19 of this action for purposes of any further proceedings related to this Stipulation and Proposed
20 Order.

21 /// [signatures on following page]

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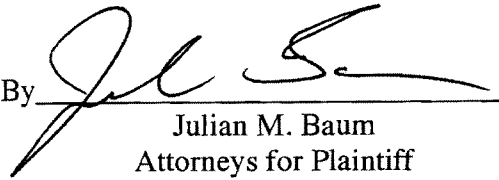
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BAUM & WEEMS

Date: May 8, 2008

By

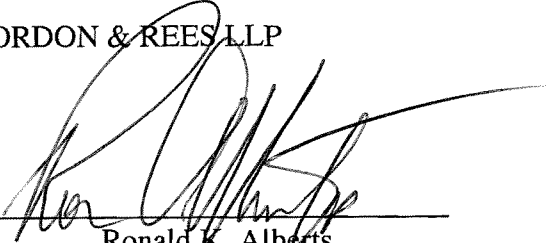


Julian M. Baum
Attorneys for Plaintiff
David Carleton

GORDON & REES LLP

Date: May 8, 2008

By



Ronald K. Alberts
Attorneys for Defendants

ORDER

The parties having stipulated as set forth above,

**IT IS SO ORDERED. The hearing presently scheduled for May 16, 2008 is
VACATED.**

DATED: MAY 12, 2008



JEFFREY S. WHITE

UNITED STATES DISTRICT JUDGE